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VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

September 20, 2016

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
12000 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Loretta Lynch, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Alexis Strauss, Acting Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA 94105

Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Citizen Suit Coordinator
Environmental and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

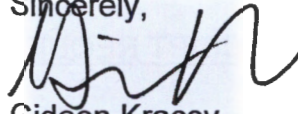
RE: Los Angeles Waterkeeper v. Triumph Processing 2:16-cv-7037 RSWL KSx

Dear Madams and Sirs:

Pursuant to 40 CFR Section 135.4, please see enclosed a copy of the filed Complaint in the referenced matter filed September 19, 2016. The Notice of Judicial Assignment was made today.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'G. Kracov', written over a light blue rectangular background.

Gideon Kracov

Encl.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to:

District Judge **Ronald S. W. Lew**
Magistrate Judge **Karen L. Stevenson**

The case number on all documents filed with the Court should read as follows:

2:16-cv-7037 RSWL (KSx)

Most district judges in the Central District of California refer all discovery-related motions to the assigned magistrate judge pursuant to General Order No. 05-07. If this case has been assigned to Judge Manuel L. Real, discovery-related motions should generally be noticed for hearing before the assigned district judge. Otherwise, discovery-related motions should generally be noticed for hearing before the assigned magistrate judge. Please refer to the assigned judges' Procedures and Schedules, available on the Court's website at www.cacd.uscourts.gov/judges-requirements, for additional information.

Clerk, U.S. District Court

September 20, 2016
Date

By /s/ Edwin Sambrano
Deputy Clerk

ATTENTION

The party that filed the case-initiating document in this case (for example, the complaint or the notice of removal) must serve a copy of this Notice on all parties served with the case-initiating document. In addition, if the case-initiating document in this case was electronically filed, the party that filed it must, upon receipt of this Notice, promptly deliver mandatory chambers copies of all previously filed documents to the newly assigned-district judge. See L.R. 5-4.5. A copy of this Notice should be attached to the first page of the mandatory chambers copy of the case-initiating document.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LOS ANGELES WATERKEEPER, a
non-profit corporation,

Plaintiff,

vs.

TRIUMPH PROCESSING INC., a
corporation; DOES 1 through 10,

Defendants.

Case No. 2:16-cv-7037 RSWL KSy

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

**(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)**

LOS ANGELES WATERKEEPER ("LAW" or "Plaintiff"), a California non-
profit corporation, by and through its counsel, hereby alleges:

1 **I. JURISDICTION AND VENUE**

2 1. This is a civil suit brought under the citizen suit enforcement provisions
3 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (“Clean Water
4 Act” or “Act”). This Court has subject matter jurisdiction over the parties and the
5 subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. §
6 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the United
7 States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201–02 (power
8 to issue declaratory relief in case of actual controversy and further necessary relief
9 based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33
10 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

11 2. On July 15, 2016, Plaintiff provided notice of Defendant’s violations of
12 the Act, and of its intention to file suit against Defendant, to the Administrator of the
13 United States Environmental Protection Agency (“EPA”); the Administrator of EPA
14 Region IX; the Executive Director of the State Water Resources Control Board (“State
15 Board”); the Executive Officer of the California Regional Water Quality Control
16 Board, Los Angeles Region 4 (“Regional Board”); and to Defendant TRIUMPH
17 PROCESSING INC. (“TRIUMPH” or “Defendant”), as required by the Act, 33
18 U.S.C. § 1365(b)(1)(A). A true and correct copy of the notice letter is attached as
19 Exhibit A, and is incorporated by reference.

20 3. More than sixty days have passed since notice was served on TRIUMPH
21 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
22 COMPLAINT

1 alleges, that neither the EPA nor the State of California has commenced or is
2 diligently prosecuting a court action to redress the violations alleged in this
3 Complaint. This action's claim for civil penalties is not barred by any prior
4 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
5

6 4. Venue is proper in the Central District of California pursuant to Section
7 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the sources of violations are
8 located within this judicial district.
9

10 **II. INTRODUCTION**

11
12 5. This Complaint seeks relief for discharges of storm water and non-storm
13 water pollutants from Defendant TRIUMPH'S facilities located at 2650 and 2588
14 Industrial Way, Lynwood, California (hereinafter "Facilities") in violation of the Act
15 and National Pollutant Discharge Elimination System ("NPDES") Permit No. CA
16 S000001, State Water Resources Control Board Water Quality Order
17 No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ, Water
18 Quality Order No. 97-03-DWQ and Order No. 2015-0057-DWQ (hereinafter the
19 "Permit" or "General Permit"). Defendant's failure to comply with the discharge,
20 treatment technology, monitoring requirements, and other procedural and substantive
21 requirements of the Permit and the Act are ongoing and continuous.
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24

25 6. With every significant rainfall event, millions of gallons of polluted
26 storm water originating from industrial operations enter storm drains and local
27 waterways. The consensus among agencies and water quality specialists is that storm
28

1 water pollution accounts for more than half of the total pollution entering surface
2 waters each year.

3 7. Los Angeles' waterways are ecologically sensitive areas and are essential
4 habitat for dozens of fish and bird species as well as macro-invertebrate and
5 invertebrate species. The waterways provide aesthetic opportunities, such as wildlife
6 observation, and the public uses these waterways for activities such as water contact
7 sports and non-contact recreation.
8

10 8. Industrial facilities that are discharging storm water and non-storm water
11 contaminated with sediment, heavy metals, and other pollutants contribute to the
12 impairment of downstream waters and aquatic dependent wildlife. These
13 contaminated discharges can and must be controlled for ecosystem recovery.
14
15

16 **III. PARTIES**

17 9. Plaintiff LAW is a non-profit public benefit corporation organized under
18 the laws of the State of California with its main office located at 120 Broadway, Suite
19 105, Santa Monica, California 90401. LAW is an organization of the Waterkeeper
20 Alliance, the world's fastest growing environmental movement.
21
22

23 10. Founded in 1993, LAW is dedicated to the preservation, protection and
24 defense of the inland and coastal surface and groundwaters of Los Angeles County.
25 The organization works to achieve this goal through litigation and regulatory
26 programs that ensure water quality protection for all waterways in Los Angeles
27 County. Where necessary to achieve its objectives, LAW directly initiates
28

1 enforcement actions under the Act on behalf of itself and its members.

2 11. LAW has approximately 3,000 members who live and/or recreate in and
3 around the Los Angeles basin, including many who live and recreate along the Los
4 Angeles River and connected waters. LAW members use and enjoy local waters and
5 waterways to fish, surf, swim, sail, SCUBA dive, kayak, bird watch, view wildlife,
6 hike, bike, walk, and run. Additionally, LAW's members use the waters to engage in
7 scientific study through pollution and habitat monitoring, and restoration activities.
8

9 12. The unlawful discharge of pollutants from the Facilities into Compton
10 Creek, the Los Angeles River and the Pacific Ocean (collectively "Receiving
11 Waters") impairs the ability of LAW members to use and enjoy these waters. Thus,
12 the interests of LAW's members have been, are being, and will continue to be
13 adversely affected by the Facilities' failure to comply with the Clean Water Act and
14 General Industrial Permit. The relief sought herein will redress the harms to Plaintiff
15 caused by Defendant(s)' activities.
16

17 13. Continuing commission of the acts and omissions alleged herein will
18 irreparably harm Plaintiff and its members, for which harm they have no plain, speedy
19 or adequate remedy at law.
20

21 14. Plaintiff alleges on information and belief that Defendant TRIUMPH is a
22 California corporation that owns and operates the Facilities.
23

24 15. Upon information and belief, and upon that basis, Plaintiff alleges that
25 the true names, or capacities of DOES 1 through 10, inclusive (the "DOES"), whether
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1 individual, corporate, associate or otherwise, are presently unknown to Plaintiff, who
2 therefore sue said Defendants by such fictitious names. Plaintiff will amend this
3 Complaint to show their true names and capacities when the same have been
4 ascertained. Whether or not TRIUMPH is associated with any other individual,
5 corporate, associate or otherwise was not immediately apparent through an initial
6 investigation completed by Plaintiff.
7
8

9 16. TRIUMPH and DOES 1 through 10 are referred to collectively
10 throughout this Complaint as Defendant or Defendants.
11

12 IV. STATUTORY BACKGROUND

13 17. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
14 any pollutant into waters of the United States, unless such discharge is in compliance
15 with various enumerated sections of the Act. Among other things, Section 301(a)
16 prohibits discharges not authorized by, or in violation of, the terms of an NPDES
17 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
18
19

20 18. Section 402(p) of the Act establishes a framework for regulating
21 municipal and industrial storm water discharges under the NPDES program. 33
22 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
23 Section 402(p) to regulate industrial storm water discharges through individual
24 permits issued to specific dischargers, or through the issuance of a single, statewide
25 general permit applicable to all industrial storm water dischargers. 33 U.S.C. §
26
27
28 1342(p).

1 19. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
2 of the U.S. EPA has authorized California's State Water Resources Control Board
3 ("State Board") to issue NPDES permits, including general NPDES permits, in
4 California. 33 U.S.C. §§ 1342(b), (d). The objective of the Act is to "restore and
5 maintain the chemical, physical and biological integrity of the Nation's waters." 33
6 U.S.C. §§ 1251(a), 1311(b)(2)(A). To this end, the Act prohibits the discharge of a
7 pollutant from any point source into waters of the United States except in compliance
8 with other requirements of the Act, including Section 402, which provides for NPDES
9 permits. 33 U.S.C. §§ 1311(a), 1342(p). The Regional Board is responsible for
10 issuance and enforcement of the General Permit in Region 4, which covers both
11 Facilities and Receiving Waters.
12
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15

16 20. The State Board elected to issue a statewide General Permit for industrial
17 storm water discharges. Between 1997 and June 30, 2015, the General Permit in
18 effect was Order No. 97-03-DWQ ("1997 Permit"). On July 1, 2015, pursuant to
19 Order No. 2014-0057-DWQ the General Permit was re-issues ("2015 Permit").
20
21

22 21. In order to discharge storm water lawfully in California, industrial
23 dischargers must comply with the terms of the General Permit or have obtained and
24 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
25

26 22. The General Permit contains several prohibitions. Effluent Limitation
27 section B(3) of the 1997 Permit and V(A) of the 2015 Permit require dischargers to
28 reduce or prevent pollutants in their storm water discharges through implementation

1 of the Best Available Technology Economically Achievable ("BAT") for toxic and
2 nonconventional pollutants, and the Best Conventional Pollutant Control Technology
3 ("BCT") for conventional pollutants. BAT and BCT include both nonstructural and
4 structural measures. Receiving Water Limitation C(1) of the 1997 Permit prohibits
5 storm water discharges and authorized non-storm water discharges to surface water
6 that adversely impact human health or the environment. The 2015 Permit includes the
7 same Receiving Water Limitation. *See* 2015 Permit, § VI.B. Discharges that contain
8 pollutants in concentrations that exceed levels known to adversely impact aquatic
9 species and the environment constitute violations of the Permit's Receiving Water
10 Limitations. *See* 1997 Permit, § C(1); 2015 Permit, § VI.B. Receiving Water
11 Limitation C(2) of the 1997 Permit prohibits storm water discharges and authorized
12 non-storm water discharges that cause or contribute to an exceedance of an applicable
13 Water Quality Standard ("WQS"). The 2015 Permit includes the same receiving
14 water limitation. *See* 2015 Permit, § VI.A. Discharges that contain pollutants in
15 excess of an applicable WQS violate these Receiving Water Limitations. *See* 1997
16 Permit, § C(2); *see also* 2015 Permit, § VI.A.

23 23. In addition to absolute prohibitions, the General Permit contains a variety
24 of substantive and procedural requirements that dischargers must meet. Both the 1997
25 Permit and the 2015 Permit generally require facility operators to: i) submit a Notice
26 of Intent ("NOI") certifying the type of activity or activities undertaken at a facility
27 and committing the operator to comply with the terms and conditions of the Permit; ii)

1 eliminate unauthorized non-storm water discharges; iii) develop and implement a
2 Storm Water Pollution Prevention Plan ("SWPPP"); iv) perform monitoring of storm
3 water discharges and authorized non-storm water discharges; and v) file an Annual
4 Report summarizing the year's industrial activities and certifying compliance with the
5 General Permit.
6

7
8 24. The SWPPP must describe storm water control facilities and measures
9 that comply with the BAT and BCT standards. The General Permit requires the initial
10 SWPPP to have been developed and implemented before October 1, 1992. The
11 SWPPP must, among other requirements, identify and evaluate sources of pollutants
12 associated with industrial activities that may affect the quality of storm and non-storm
13 water discharges from the facility and identify and implement site-specific best
14 management practices ("BMPs") to reduce or prevent pollutants associated with
15
16 industrial activities in storm water and authorized non-storm water discharges. *See*
17
18 1997 Permit, § A(2). Among other requirements, the SWPPP must include the
19
20 following: identification and training of a pollution prevention team; a site map with
21 detailed demarcations of potential pollutant sources, storm water flows and
22 discharge/sampling points; a description and assessment of potential pollutant
23 sources; and a description of BMPs, including both structural and non-structural
24 techniques. Section X(D)-X(I) of the 2015 Permit sets forth essentially the same
25 SWPPP requirements, except that all dischargers are now required to develop and
26
27 implement a set of minimum BMPs, as well as advanced BMPs as necessary to
28

1 achieve BAT/BCT. *See* 2015 Permit, § X(H). The 2015 Permit further requires
2 certain SWPPP enhancements, including a more comprehensive assessment of
3 potential pollutant sources and more specific BMP descriptions. *See* 2015 Permit, §§
4 X(G)(2), (4), (5).

6 25. The objectives of the requirement to development, maintain and revise a
7 SWPPP are to identify pollutant sources and develop BMPs that reduce or prevent
8 polluted storm water from negatively affecting Receiving Waters and California
9 communities. *See* 1997 Permit, § A(2); 2015 Permit, § X(C). BMPs must achieve
10 compliance with the Permit's Effluent Limitations and Receiving Water Limitations.
11 To ensure compliance, the SWPPP must be evaluated and revised as necessary. *See*
12 1997 Permit, §§ A(9)-(10); 2015 Permit, § X(B). Failure to develop or implement an
13 adequate SWPPP, or revise an existing SWPPP as necessary, is an independent Permit
14 violation. *See* 2015 Permit, Fact Sheet § I(1).
15

16 26. Also, the 1997 Permit requires facility operators to develop and
17 implement an adequate Monitoring and Reporting Program ("M&RP") before
18 industrial activities begin at a facility. *See* 1997 Permit, § B(1). The 2015 Permit
19 contains substantially identical requirements. *See* 2015 Permit, § XI. The primary
20 objective of the M&RP is to detect and measure the concentrations of pollutants in a
21 facility's discharges to ensure compliance with the Permit's Effluent Limitations and
22 Receiving Water Limitations. An adequate M&RP must be reviewed and revised in
23 response to analyses and observations in order to ensure that BMPs are effectively
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1 reducing and/or eliminating pollutants from a facility's activities from entering the
2 Receiving Waters. Furthermore, the Permit includes specific provisions requiring all
3 covered facilities to revise and improve BMPs when analytical results demonstrate an
4 exceedance of a NAL. *See* 2015 Permit, § XII.

6 27. The 1997 Permit and 2015 Permit both contain the same basic
7 requirements, which include conducting visual observations of storm water discharges
8 and authorized non-storm water discharges, collect and analyze samples of storm
9 water discharges for relevant pollutants, revise and change the SWPPP and/or facility
10 operations as necessary in response to analytical data, and file an Annual Report with
11 the State Board. *See e.g.* 1997 Permit, §§ (B)3-(B)16.

14 28. Further, the 1997 Permit required dischargers to collect storm water
15 samples during the first hour of discharge from the first storm even of a wet season,
16 and at least one other storm event during a reporting year. *See* 1997 Permit, § B(5).
17 The 2015 Permit created a more demanding schedule, and requires TRIUMPH to
18 sample and analyze four storm water discharges over the course of a reporting year.
19 *See* 2015 Permit, § XI(B)(2). Under the 1997 Permit, facilities must sample from
20 qualifying storm events, which occur when there is a discharge of storm water during
21 facility operating hours that was preceded by at least three working days without a
22 storm water discharge. *See* 1997 Permit, § B(5)(b). The 2015 Permit broadens the
23 definition of qualifying storm event by requiring only 48-hours without a storm water
24 discharge from any drainage area. *See* 2015 Permit, § XI(B)(1)(b). A sample must be
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1 collected from each discharge point at the Facilities, and in the event that an operator
2 fails to collect from each discharge point, the operators must still collect samples from
3 two other storm events and explain in the Annual Report why the first storm event
4 was not sampled.
5

6 29. The General Permit requires all facilities to sample and analyze storm
7 water discharges for the following parameters: pH, Total Suspended Solids ("TSS"),
8 Specific Conductance ("SC"), and Total Organic Carbon ("TOC") or Oil and Grease
9 ("O&G"). See 1997 Permit, § B(5)(c)(i); 2015 Permit, §§ XI(B)(6)(a)-(b). The
10 Permit further requires dischargers to sample for parameters based on a facility's
11 standard industrial classification ("SIC") code. *Id.* at Table D and Table 1
12 respectively. Further, the Permit requires the Facilities analyze each sample for toxic
13 chemicals and other pollutants likely to be present in significant quantities or that are
14 associated with industrial activities at the site. See 1997 Permit, § B(5)(c)(ii); 2015
15 Permit, § XI(B)(6)(c).
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20 30. The General Permit does not provide for any mixing zones by
21 dischargers. The General Permit does not provide for any dilution credits to be
22 applied by dischargers.
23

24 31. The Regional Board issued the *Water Quality Control Plan—Los*
25 *Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura*
26 *County* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of the
27 portions of the Receiving Waters that receive polluted storm water discharges from
28

1 the Facilities. The Beneficial Uses of the Receiving Waters include municipal and
2 domestic water supply, ground water recharge, water contact and non-contact water
3 recreation, commercial fishing, warm freshwater habitat, estuarine habitat, marine
4 habitat, wildlife habitat, rare, threatened, or endangered species, migration of aquatic
5 organisms, spawning, reproduction and/or early development, and wetland habitat.
6

7 *See* Basin Plan, Table 2-1.
8

9 32. Compton Creek is the first major tributary above the Los Angeles River
10 Estuary, which is impaired by, among other pollutants, chlordane, and sediment
11 toxicity. Compton Creek is also a major contributor of trash loadings in the lower LA
12 River. Because the watershed covers a flat, low-lying area that formerly was a
13 marshland draining to Los Angeles Harbor, there is significant wetlands habitat in
14 need of restoration. Reach 1 of the Los Angeles River is impaired by, among other
15 pollutants, copper, lead, zinc, pH, coliform bacteria, nutrients, and trash. The Los
16 Angeles River Estuary is impaired by, among other pollutants, chlordane, sediment
17 toxicity, and trash. The Los Angeles/Long Beach Harbor is impaired by at least
18 chrysene, copper, sediment toxicity, mercury, and zinc. The San Pedro Bay is
19 impaired by sediment toxicity, and the Long Beach City Beach, one of the San Pedro
20 Bay beaches, is impaired by indicator bacteria.
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23 33. Polluted discharges from the Facilities cause and/or contribute to the
24 degradation of these already impaired surface waters, beaches, and aquatic dependent
25 wildlife. Contaminated storm water discharges, including those from the Facilities,
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1 must be eliminated if the Los Angeles area's aquatic ecosystems have any chance to
2 regain their health.

3 34. The EPA published "benchmark" levels as numeric thresholds to aid in
4 determining whether a facility discharging industrial storm water had implemented the
5 requisite BAT and/or BCT as mandated by the Act. See United States Environmental
6 Protection Agency NPDES Multi-Sector General Permit for Storm Water Discharges
7 Associated with Industrial Activity, as modified effective May 9, 2009. EPA's
8 benchmarks serve as objective measures for evaluating whether a permittee's BMPs
9 achieve BAT/BCT standards as required by Effluent Limitation B(3) of the 1997
10 Permit. Under the 2015 Permit, the State Board added Numeric Action Levels
11 ("NALs") as part of the adaptive management approach implemented through the
12 Permit. See 2015 Permit, § V(A). NALs are derived from EPA benchmarks, and
13 function to trigger reporting requirements. See 2015 Permit, Fact Sheet § I(D)(5).
14 While exceedances of the NALs demonstrate that a facility is among the worst
15 performing facilities in the State, and has failed implement pollution prevention
16 measures required by the Permit and Act, NALs do not represent technology based
17 criteria relevant to determining whether a permittee has implemented BMPs that
18 achieve BAT/BCT. Benchmarks and NALs represent pollutant concentrations at
19 which a storm water discharge could impair, or contribute to impairing, water quality
20 and/or affect human health.

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28 35. Sections 505(a)(1) and 505(f) of the Act provide for citizen enforcement

1 actions against any "person," including individuals, corporations, or partnerships, for
2 violations of NPDES permit requirements. 33 U.S.C. §§ 1365(a)(1) and (f), 1362(5).

3 An action for injunctive relief under the Act is authorized by 33 U.S.C. § 1365(a).

4
5 Violators of the Act are also subject to an assessment of civil penalties of up \$37,500
6 per day per violation for all violations occurring after January 12, 2009, pursuant to
7 Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R.
8 §§ 19.1 - 19.4.
9

10 **V. STATEMENT OF FACTS**

11
12 36. Upon information and belief, both TRIUMPH Facilities were enrolled in
13 the stormwater permit program under the 1997 Permit, but NOIs were not available.
14 The Facilities submitted NOIs to the State Board for coverage under the 2015 Permit
15 on June 9, 2015. The Waste Discharge Identification ("WDID") numbers for
16 TRIUMPH's Facilities are 4 19I002226 and 4 19I023351 for the Facilities,
17
18 respectively.
19

20 37. The Facilities are each approximately 3 acres of principally impervious
21 surfaces. Industrial activities, for both ferrous and non-ferrous production, take place
22 in and around Plant #1 at the 5310 Southern Avenue address.

23
24 38. The Primary SIC code for both Facilities is 3471 (Electroplating, Plating,
25 Polishing, Anodizing, and Coloring). On information and belief, both Facilities
26 perform anodizing, inspection and painting services. Equipment at the Facilities
27 includes chromic acid anodizing lines, natural and/or propane gas fired boilers,
28

1 propane storage tanks, spray painting booths, curing ovens, polishing equipment and
2 associated equipment including automobiles and maintenance tools.

3 39. According to information and belief, activities at the Facilities that are
4 significant to storm water management include the usage and storage of substances
5 that are (or contain) hazardous chemicals, including a hazardous waste storage area at
6 the 2650 Industrial Way plant. Potential sources of pollution from the Facilities
7 include: petroleum distillates contained in the liquid penetrant and dye used in
8 testing; various acids and salts used in the anodizing process; wastewaters containing
9 hexavalent chromium generated from the anodizing process; epoxy and polyurethane
10 based paints and their significant chemical constituents as well as acetone and methyl
11 ethyl ketone generated from spray coating operations; hazardous wastes, including
12 acetone waste paint, oily water, filter press cake, chrome debris, paint filters and
13 paint dust.
14

15 40. Storm water from the Facilities drains to Compton Creek via the storm
16 drain system maintained by the Los Angeles County Flood Control District. From
17 Compton Creek, storm water discharges comeingle into the Los Angeles River, and
18 ultimately, flow to the Pacific Ocean.
19

20 41. On information and belief, Plaintiff alleges that the Facilities'
21 management practices do not prevent the sources of contamination described above
22 from causing the discharge of pollutants to waters of the United States.
23

24 42. Since at least November 4, 2011, TRIUMPH has taken samples or
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1 arranged for samples to be taken of storm water discharges at the Facilities. The
 2 sample results were reported in the Facilities' certified annual reports submitted to the
 3 Regional Board.
 4

5 43. According to information available to LAW, including a thorough review
 6 of both electronic and hard copy files held by the Regional Board, the Facilities have
 7 been in continuous violation of the Permit's Effluent Limitations for the entirety of
 8 the relevant statute of limitations, at least with respect to pH, Total Suspended Solids
 9 (TSS), Aluminum (Al), Chromium (Cr), Iron (Fe), Nitrate + Nitrite Nitrogen (N+N),
 10 Specific Conductance (SC) and Zinc (Zn).
 11

12 44. The data available to LAW relevant to Facilities' violations of the
 13 Permit's Effluent Limitation, as reported to the Regional Board by TRIUMPH, are
 14 summarized below at Table 1 and Table 2. Self-monitoring reports under the Permit
 15 are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra*
 16 *Club v Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).
 17
 18
 19

20 **TABLE 1**

21 **SAMPLING DATA FROM TRIUMPH FACILITY AT 2650 INDUSTRIAL WAY**

22 LINE	SAMPLE DATE	PARAMETER	OBSERVED CONCENTRATION	EPA BENCHMARK	DISCHARGE POINT
23 1	11/04/11	pH	5.2 pH units	6.0-9.0 pH units	unknown
24 2	11/04/11	pH	5.1 pH units	6.0-9.0 pH units	unknown
25 3	04/26/12	pH	5.2 pH units	6.0-9.0 pH units	unknown
26 4	01/24/13	pH	5.4 mg/L	6.0-9.0 pH units	unknown

1	5	01/24/13	SC	392 μ S/m	200 μ S/m	unknown
2	6	01/24/13	Zn	0.21 mg/L	0.117 mg/L	unknown
3	7	02/19/13	pH	5.9 pH units	6.0-9.0 pH units	composite
4	8	02/19/13	SC	430 μ S/m	200 μ S/m	composite
5	9	02/19/13	N+N	6.89 mg/L	0.68 mg/L	composite
6	10	02/19/13	Al	1.96 mg/L	0.75 mg/L	composite
7	11	02/19/13	Zn	0.83 mg/L	0.117 mg/L	composite
8	12	12/19/13	Cr	0.069 mg/L	n/a	composite
9	13	12/19/13	Zn	1.02 mg/L	0.117 mg/L	composite
10	14	12/19/13	N+N	7.0 mg/L	0.68 mg/L	composite
11	15	12/19/13	Fe	3.13 mg/L	1.0 mg/L	composite
12	16	12/19/13	Al	5.75 mg/L	0.75 mg/L	composite
13	17	12/19/13	SC	329 μ S/m	200 μ S/m	composite
14	18	01/26/15	Cr	0.036 mg/L	n/a	unknown
15	19	01/26/15	N+N	6.6 mg/L	0.68 mg/L	unknown
16	20	01/26/15	Fe	2.12 mg/L	1.0 mg/L	unknown
17	21	01/26/15	Al	4.19 mg/L	0.75 mg/L	unknown
18	22	01/26/15	SC	245 μ S/m	200 μ S/m	unknown
19	23	05/14/15	Cr	0.28 mg/L	n/a	unknown
20	24	05/14/15	Zn	0.83 mg/L	0.117 mg/L	unknown
21	25	05/14/15	N+N	2.6 mg/L	0.68 mg/L	unknown
22	26	05/14/15	Fe	3.8 mg/L	1.0 mg/L	unknown

1	27	05/14/15	Al	4.2 mg/L	0.75 mg/L	unknown
2	28	05/14/15	SC	301 μ S/m	200 μ S/m	unknown
3	29	01/05/16	Al	0.82 mg/L	0.75 mg/L	Location 1
4	30	01/05/16	Zn	0.31 mg/L	0.117 mg/L	Location 1
5	31	01/05/16	Al	1.8 mg/L	0.75 mg/L	Location 2
6	32	01/05/16	Zn	0.32 mg/L	0.117 mg/L	Location 2
7	33	01/05/16	Fe	2.16 mg/L	1.0 mg/L	Location 2
8	34	03/07/16	pH	5.93 pH units	6.0-9.0 pH units	Location 2
9	35	03/07/16	Zn	0.20 mg/L	0.117 mg/L	Location 2
10	36	03/07/16	Zn	0.12 mg/L	0.117 mg/L	Location 3
11	37	03/11/16	N+N	1.07 mg/L	0.68 mg/L	Location 1
12	38	03/11/16	Zn	0.25 mg/L	0.117 mg/L	Location 1
13	39	03/11/16	Al	0.81 mg/L	0.75 mg/L	Location 2
14	40	03/11/16	Zn	0.16 mg/L	0.117 mg/L	Location 2
15	41	03/11/16	N+N	1.06 mg/L	0.68 mg/L	Location 3
16	42	03/11/16	Zn	0.22 mg/L	0.117 mg/L	Location 3

TABLE 2**SAMPLING DATA FROM TRIUMPH FACILITY AT 2588 INDUSTRIAL WAY**

LINE	SAMPLE DATE	PARAMETER	OBSERVED CONCENTRATION	EPA BENCHMARK	DISCHARGE POINT
1	04/26/12	pH	5.1 pH units	6.0-9.0 pH units	North Side
2	04/26/12	pH	5.5 pH units	6.0-9.0 pH units	Composite
3	01/24/13	pH	5.4 pH units	6.0-9.0 pH units	composite

COMPLAINT

1	4	01/24/13	Zn	0.18 mg/L	0.117 mg/L	composite
2	5	02/19/13	Al	2.66 mg/L	0.75 mg/L	composite
3	6	02/19/13	Zn	2.15 mg/L	0.117 mg/L	composite
4	7	02/19/13	pH	5.6 pH units	6.0-9.0 pH units	composite
5	8	02/19/13	SC	392 μ S/m	200 μ S/m	composite
6	9	02/19/13	N+N	10.67 mg/L	0.68 mg/L	composite
7	10	12/19/13	Al	1.77 mg/L	0.75 mg/L	unknown
8	11	12/19/13	Zn	2.62 mg/L	0.117 mg/L	unknown
9	12	12/19/13	N+N	4.1 mg/L	0.68 mg/L	unknown
10	13	12/19/13	Fe	1.42 mg/L	1.0 mg/L	unknown
11	14	12/19/13	Cr	0.14 mg/L	n/a	unknown
12	15	01/26/15	Zn	0.45 mg/L	0.117 mg/L	unknown
13	16	01/26/15	Al	3.04 mg/L	0.75 mg/L	unknown
14	17	01/26/15	N+N	6.6 mg/L	0.68 mg/L	unknown
15	18	01/26/15	Fe	2.7 mg/L	1.0 mg/L	unknown
16	19	05/14/15	Cr	0.38 mg/L	n/a	unknown
17	20	05/14/15	Fe	4.67 mg/L	1.0 mg/L	unknown
18	21	05/14/15	Al	3.14 mg/L	0.75 mg/L	unknown
19	22	05/14/15	Zn	0.55 mg/L	0.117 mg/L	unknown
20	23	01/05/16	TSS	289.5 mg/L	100 mg/L	Location 1
21	24	01/05/16	N+N	2.03 mg/L	0.68 mg/L	Location 1
22	25	01/05/16	Al	3.7 mg/L	0.75 mg/L	Location 1

1	26	01/05/16	Zn	0.25 mg/L	0.117 mg/L	Location 1
2	27	01/05/16	Fe	7.79 mg/L	1.0 mg/L	Location 1
3	28	01/05/16	Cr	1.11 mg/L	n/a	Location 1
4	29	03/07/17	Zn	1.0 mg/L	0.117 mg/L	Location 1
5	30	03/07/17	Zn	0.19 mg/L	0.117 mg/L	Location 2
6	31	03/07/17	Fe	1.73 mg/L	1.0 mg/L	Location 2
7	32	03/11/16	TSS	240.3 mg/L	100 mg/L	Location 1
8	33	03/11/16	N+N	1.09 mg/L	0.68 mg/L	Location 1
9	34	03/11/16	Cr	0.63 mg/L	n/a	Location 1
10	35	03/11/16	Fe	5.77 mg/L	1.0 mg/L	Location 1
11	36	03/11/16	Zn	0.49 mg/L	0.117 mg/L	Location 1
12	37	03/11/16	Al	3.2 mg/L	0.75 mg/L	Location 1
13	38	03/11/16	Al	0.94 mg/L	0.75 mg/L	Location 2

18 45. The results of storm water sample analysis contained in Table 1 and
19 Table 2 above demonstrate that the TRIUMPH has not developed or implemented
20 BMPs that achieve compliance with the Act's BAT/BCT mandates.

22 46. These storm water sampling data demonstrate that discharges from both
23 Facilities contain concentrations of pollutants that cause or contribute to a violation of
24 at least two of the applicable WQS: 1) the Basin Plan; and 2) the EPA's California
25 Toxics Rule ("CTR"). *See* 40 C.F.R. § 131.38. Both the Basin Plan and the CTR set
26 the numeric limit for Aluminum at 1 milligram per liter (mg/L), which is identical to
27
28

1 the level set in the EPA's benchmarks for the 1997 Permit and the applicable NAL in
2 the 2015 Permit. Discharges from the Facilities in excess of the numeric water quality
3 standards set in these WQS's constitute individual violations of Receiving Water
4 Limitations. Therefore, in addition to a violation of the Permit's Effluent Limitation,
5 any and all exceedances of a 1 mg/L limit for Aluminum is a separate and distinct
6 violation of the Permit's Receiving Water Limitations.
7
8

9 47. Discharges of elevated concentrations of pollutants in the Facilities'
10 storm water can adversely impact human health. Both Facilities discharge storm
11 water that contains chemicals, including Zinc, which can be acutely toxic and/or have
12 sub-lethal impacts on humans, wildlife and can adversely affect overall ecosystem
13 health.
14
15

16 48. On information and belief, Plaintiff further alleges that during the 2012-
17 2013, 2013-2014, 2014-2015 reporting years, TRIUMPH improperly combined
18 samples from different discharge points.
19

20 49. On information and belief, Plaintiff further alleges that TRIUMPH failed
21 to collect samples from an adequate number of storm events, including during storm
22 water year 2011-12, storm water year 2012-13 and storm water year 2015-16.
23

24 50. The Facilities' operator must report any noncompliance with the Permit
25 at the time that Annual Reports are submitted, including 1) a description of the
26 noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance
27 has not been corrected, the anticipated time it is expected to continue, and 4) steps
28

1 taken or planned to reduce and prevent recurrence of the noncompliance. *See* 1997
2 Permit, § C(11)(d). TRIUMPH has failed and continues to fail to report
3 noncompliance as required.
4

5 51. LAW will include additional violations when information becomes
6 available, including specifically violations of the 2015 Permit reporting requirements.
7
8 *See* 2015 Permit, §§ XII, XVI.

9 52. Information available to Plaintiff indicates that Defendant has not
10 fulfilled the requirements set forth in the General Permit for discharges from the
11 Facilities due to the continued discharge of contaminated storm water. Plaintiff
12 alleges that since at least September 19, 2016, Defendant has not implemented BAT
13 and BCT at the Facility for discharges of pH, Total Suspended Solids (TSS),
14 Aluminum (Al), Chromium (Cr), Iron (Fe), Nitrate + Nitrite Nitrogen (N+N), Specific
15 Conductance (SC) and Zinc (Zn) and other pollutants as of the date of this Complaint.
16
17
18

19 53. Plaintiff is informed and believes, and thereupon alleges, that all of the
20 violations alleged in this Complaint are ongoing and continuing.
21

22 ///

23
24 ///

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Discharges of Contaminated Storm Water in Violation of Permit Effluent Limitations and the Act

(33 U.S.C. §§ 1311, 1342, 1365(a), and 1365(f))

54. Plaintiff re-alleges and incorporates the allegations contained in the above paragraphs as if fully set forth herein.

55. Effluent Limitation Sections B(3) of the 1997 Permit and V(A) of the 2015 Permit require dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. Defendant has not reduced or prevented discharges of pH, Total Suspended Solids (TSS), Aluminum (Al), Iron (Fe), Nitrate + Nitrite Nitrogen (N+N), Specific Conductance (SC) and Zinc (Zn) and other pollutants associated with industrial activities at the Facilities through implementation of BMPs that achieve BAT and BCT in violation of Effluent Limitation Sections B(3) of the 1997 Permit and V(A) of the 2015 Permit.

56. It is a violation of the Permit's Effluent Limitations each and every time storm water containing levels of pollutants that do not achieve BAT/BCT standards discharges from either Facility.

57. Each and every violation of the Storm Water Permit Effluent Limitations is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

58. The violations of the Permit's Effluent Limitations and the Act are

1 ongoing and continuous.

2 59. By committing the acts and omissions alleged above, the Owner and/or
3 Operator is subject to an assessment of civil penalties for each and every violation of
4 the CWA occurring from September 19, 2016 to the present, pursuant to sections
5 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.
6

7 60. An action for injunctive relief is authorized by Section 505(a) of the Act,
8 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
9 would irreparably harm Plaintiff and the citizens of the State of California, for which
10 harm LAW has no plain, speedy, or adequate remedy at law.
11

12 61. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
13 because an actual controversy exists as to the rights and other legal relations of the
14 Parties.
15

16 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth
17 hereafter.
18

19
20 **SECOND CAUSE OF ACTION**

21 **Discharges of Contaminated Storm Water**
22 **in Violation of Permit Receiving Water Limitations and the Act**
23 **(33 U.S.C. §§ 1311, 1342, 1365(a), and 1365(f))**
24

25 62. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
26 fully set forth herein.

27 63. Receiving Water Limitation C(1) of the 1997 Permit prohibits storm
28

1 water discharges and authorized non-storm water discharges to surface water that
2 adversely impact human health or the environment. The 2015 Permit includes the
3 same Receiving Water Limitation. *See* 2015 Permit, § VI.B. Discharges that contain
4 pollutants in concentrations exceeding levels known to adversely impact aquatic
5 species and the environment constitute violations of these Receiving Water
6 Limitations. *Id.* at § VI.A.

9 64. Plaintiff is informed and believes, and thereupon alleges, that since at least
10 September 19, 2016, Defendant has discharged polluted storm water from the Facilities
11 causing or contributing to the violation of the applicable water quality standards in a
12 Statewide Water Quality Control Plan and/or the Basin Plan, and that adversely impact
13 human health or the environment in violation of the Permit's Receiving Water
14 Limitation.

17 65. It is a violation of the Storm Water Permit Effluent Limitations each and
18 every time storm water containing levels of pollutants that do not achieve BAT/BCT
19 standards discharge from the Facilities. Each violation of the General Permit is a
20 separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These
21 violations are ongoing and continuous.

24 66. By committing the acts and omissions alleged above, the Owner and/or
25 Operator are subject to an assessment of civil penalties for each and every violation of
26 the Act occurring from September 19, 2016 to the present, pursuant to sections 309(d)
27 and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

WHEREFORE, Plaintiff prays for judgment against Defendant as set forth hereafter.

Failure to Develop and Implement an Adequate Monitoring and Reporting Program

69. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

71. Each day since September 19, 2016 that the Facilities did not develop or implement an adequate M&RP for the Facilities in violation of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite monitoring and analytical results are ongoing and continuous.

1 72. By committing the acts and omissions alleged above, the Owner and/or
2 Operator is subject to an assessment of civil penalties for each and every violation of
3 the CWA occurring from July 15, 2011 to the present, pursuant to sections 309(d) and
4 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

6 73. An action for injunctive relief is authorized by Section 505(a) of the Act,
7 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
8 would irreparably harm Plaintiff and the citizens of the State of California, for which
9 harm LAW has no plain, speedy, or adequate remedy at law.

11 74. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
12 because an actual controversy exists as to the rights and other legal relations of the
13 Parties.
14

15 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth
16 hereafter.
17

18
19 **FOURTH CAUSE OF ACTION**
20 **Failure to Prepare, Implement, Review, and Update**
21 **an Adequate Storm Water Pollution Prevention Plan**
22 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

23 75. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
24 fully set forth herein.

25 76. Defendants have not developed and implemented an adequate SWPPP
26 for the Facilities.

27 77. Each day since September 19, 2011, that Defendants do not develop,
28 implement and update an adequate SWPPP for the Facilities is a separate and distinct

1 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

2 78. By committing the acts and omissions alleged above, the Owner and/or
3 Operator is subject to an assessment of civil penalties for each and every violation of
4 the CWA occurring from September 16, 2011 to the present, pursuant to sections
5 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.
6

7 79. An action for injunctive relief is authorized by CWA section 505(a),
8 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
9 would irreparably harm Plaintiff and the citizens of the State of California, for which
10 harm LAW has no plain, speedy, or adequate remedy at law.
11

12 80. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
13 because an actual controversy exists as to the rights and other legal relations of the
14 Parties.
15

16 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth
17 hereafter.
18

19
20 **RELIEF REQUESTED**

21 Wherefore, Plaintiff respectfully requests that this Court grant the following
22 relief:
23

24 a. Declare Defendant(s) to have violated and to be in violation of the Act
25 as alleged herein;
26

27 b. Enjoin Defendant(s) from discharging polluted storm water from the
28 Facilities unless authorized by the Permit;

1 c. Enjoin Defendant(s) from further violating the substantive and
2 procedural requirements of the Permit;

3 d. Order Defendant(s) to immediately implement storm water pollution
4 control and treatment technologies, and measures that are equivalent to BAT or BCT
5 and prevent pollutants in the Facilities' storm water from contributing to violations of
6 any water quality standards;
7

8 e. Order Defendant(s) to comply with the Permit's monitoring and
9 reporting requirements, including ordering supplemental monitoring to compensate for
10 past monitoring violations;
11

12 f. Order Defendant(s) to prepare a SWPPP consistent with the Permit's
13 requirements and implement procedures to regularly review and update the SWPPP;
14

15 g. Order Defendant(s) to provide Plaintiff with reports documenting the
16 quality and quantity of their discharges to waters of the United States and their efforts
17 to comply with the Act and the Court's orders;
18

19 h. Order Defendant(s) to pay civil penalties of \$37,500 per day per
20 violation for all violations pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C.
21 §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;
22

23 i. Order Defendant(s) to take appropriate actions to restore the quality of
24 waters impaired or adversely affected by their activities;
25

26 j. Award Plaintiff's costs (including reasonable investigative, attorney,
27 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
28

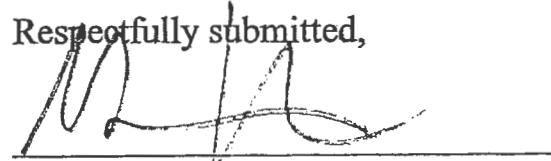
1 § 1365(d); and,

2 k. Award any such other and further relief, as this Court may deem
3 appropriate.
4

5
6 Dated: 9/19, 2016

Respectfully submitted,

7
8 By:



9 Gideon Kracov
10 Attorneys for Plaintiff
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